

A. W. RUTTER, JR.

IBLA 75-14

Decided December 13, 1974

Appeal from the June 14, 1974, decision of Montana State Office, Bureau of Land Management, denying request for approval of assignment of oil and gas lease M-24072.

Reversed.

1. Oil and Gas Leases: Assignments or Transfers

Requests for approval of assignment of record title interests should not be rejected due to inclusion of private agreements between the parties, as the pertinent regulations neither prohibit nor require the inclusion of such private agreements.

APPEARANCES: A. W. Rutter, Jr., Midland, Texas, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

A. W. Rutter, Jr., has appealed from the June 14, 1974, decision of the Montana State Office, Bureau of Land Management (BLM), which rejected his request for approval of assignment of oil and gas lease M-24072, due to the inclusion of certain private agreements between the parties. Appellant asserts that he has used the particular form of agreement many times without any question being raised as to the propriety of the agreements. He further asserts that the particular form used is a standard form used by the industry.

[1] The Montana State Office based its rejection of the request for approval of assignment on 43 CFR 3106.1-3 which provides:

A single copy of any additional information relating to citizenship and qualifications of corporations will be sufficient. Except for assignments of royalty interests all instruments of transfer of a lease or of an interest therein, including assignments of working interests, operating agreements, and subleases, must be filed for approval within 90 days from the date of final execution and, except for record title assignments, must contain all of the terms and conditions agreed upon by the parties thereto, together with similar evidence and statements as that required of an offeror under subpart 3102. (Emphasis added).

The Montana State Office interpreted the regulation to mean that private agreements cannot be included in agreements for assignment of record title. However, it seems fairly clear to this Board that a better interpretation of the regulation is that private agreements are not required to be included in transfers of record title. We find nothing in this regulation or any other regulation which would prohibit the inclusion of such agreements. 1/

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded to the Montana State Office for action consistent with the opinions expressed herein.

Edward W. Stuebing  
Administrative Judge

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1/ The Montana State Office was correct in stating that the use of Form 3106.5 for assignments of record title is not mandatory. See 43 CFR 3106.2-2. It should be noted that the Department's approval of the assignment of record title is not to be construed as giving any approval by the United States to any terms in the assignment agreement which may not be contained within or required by the Mineral Leasing Act, as amended, or the pertinent regulations of this Department.

We concur:

Douglas E. Henriques  
Administrative Judge

Joseph W. Goss  
Administrative Judge.

